

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RAQUEL NUANES and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Denver, CO

*Docket No. 00-1712; Submitted on the Record;
Issued December 28, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensations Programs properly denied appellant compensation from March 12 to September 27, 1999.

On June 25, 1999 appellant, then a 23-year-old automation clerk, filed an occupational disease claim alleging that she hurt her right shoulder, forearm and back as a result of constant lifting, bending and running a mail machine for 8 to 10 hours a day. The Office accepted appellant's claim for right shoulder strain and cervical, thoracic and lumbar strains.

In a note dated March 10, 1999, Dr. Tunde Ghincea, a Board-certified internist, stated that appellant was seen for back problems and recommended limited duty for the next eight weeks.

A March 15, 1999 worker's injury report by a physician whose signature is illegible indicates that appellant may not return to work until reexamined.

In a medical report dated April 16, 1999, Dr. David Blair, a general practitioner, indicated that appellant suffered from cervical, thoracic and lumbar back strain and right shoulder and right forearm strain related to repetitive lifting, turning and reaching at work. He noted:

"We are recommending work restrictions that include no lifting, pulling or pushing over 5 to 10 pounds as well as no reaching more than two feet away from the body or above shoulder height. We are limiting bending, stooping and twisting to no more than five or ten times per hour."

A May 17, 1999 duty status report signed by Dr. Blair indicated that appellant could work 8 hours a day within certain restrictions including lifting only 5 to 10 pounds intermittently, limited twisting and reaching above shoulder and no kneeling or driving a vehicle. In a duty status report dated July 21, 1999, Dr. Blair stated that appellant should not pull, push, lift or carry

more than five pounds and should not use her hands above shoulder height. He also suggested that appellant frequently change posture due to back pain.

In a September 15, 1999 report, Dr. Caroline Gellrick, a Board-certified family practitioner, limited appellant to lifting, pushing or pulling five pounds. In a duty status report dated December 9, 1999, Dr. Gellrick noted that appellant could lift 15 pounds.

On December 9, 1999 appellant filed a claim for wage-loss compensation from March 2 to September 27, 1999. She submitted time analysis forms for the above dates, indicating that she took leave without pay because the injury was not reported by her supervisor and no written job description was given. Appellant also submitted a duty status report by a physician whose signature is illegible.

By letter dated January 7, 2000, the Office requested further information from appellant.

In response, appellant submitted a January 10, 2000 letter from the office of Dr. Michael Ladwig indicating that appellant failed to show for her March 29, 1999 appointment, a December 9, 1999 duty status report by Dr. Gellrick, which had been submitted previously and a limited-duty assignment offer by the employing establishment which appellant signed on June 8, 1999.

By decision dated February 8, 2000, the Office denied appellant's claim for compensation from March 12 to September 27, 1999. The Office found no objective medical findings to support disability from work. Nor was there a medical explanation supporting disability for the claimed period.

The Board notes that appellant appealed from a letter dated March 10, 2000. However, the Board has jurisdiction only over final decisions of the Office. The March 10, 2000 letter constitutes a notice of proposed findings and not a final decision.¹ Therefore, the only decision before the Board at this time is the February 8, 2000 decision denying compensation from March 12 to September 27, 1999.

The Board finds that appellant failed to establish her entitlement to compensation from March 12 to September 27, 1999.

In this case, appellant failed to establish that her strain injuries resulted in disability for work from March 12 to September 27, 1999.²

In support of her claim for disability, appellant submitted various medical reports and duty status reports. Dr. Blair indicated that appellant could perform work within certain restrictions. Similarly, Dr. Gellrick stated that appellant could perform limited duty with no lifting over five pounds. Dr. Ghincea also found that appellant could work limited duty. Accordingly, these reports do not explain that appellant was totally disabled during the relevant time.

¹ See 20 C.F.R. § 501.2(c).

² See *Donald Leroy Ballard*, 43 ECAB 876 (1992).

Although the physician in the March 15, 1999 report indicated that appellant could not return to work, he failed to provide any explanation in support of this contention. The January 10, 2000 letter from the office of Dr. Ladwig indicating that appellant failed to show for her March 29, 1999 appointment is not relevant to the issue.

Appellant has failed to submit a well-reasoned narrative medical opinion explaining how her right shoulder, cervical, thoracic and lumbar strains rendered her totally disabled from March 12 to September 27, 1999. Therefore, she has not met her burden of proof and the Office properly denied the claim.

The decision of the Office of Workers' Compensation Programs dated February 8, 2000 is hereby affirmed.

Dated, Washington, DC
December 28, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member